IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.13084 of 2001

Between:

T.Prabhudasu, S/o. Late Krishna Murthy, 46 years,
R/o. 6-8-43, S.N.P.Agraharam,
Opp: Municipal Office, Bapatla, Guntur District.

...PETITIONER

AND

1. The APSRTC Bus Depot, Chirala, Prakasam District, rep.by Depot Manager.
2. The Divisional Manager, APSRTC, Ongole, Prakasam District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the Labour Court, Guntur in respect of the impugned Award dated 27.05.2000 made in I.D.No.107/94 and published on 10-11-2000 and issue an appropriate Writ or direction particularly one in the nature of Writ of CERTIORARI and quash the above impugned Award in so far as denying the back wages as arbitrary, unjust and in violation of Articles 14, 16 and 21 of the Constitution of India and consequentially direct the respondents corporation to pay the petitioner the back wages for the interrugnam period of removal.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.R.MANMADHA REDDY

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.13084 of 2001

ORDER:

Heard Sri V.Narasimha Goud, learned counsel for the petitioner and Sri R.Manmadha Reddy, learned standing counsel appearing on behalf of the respondent-Corporation.

The petitioner who was working with the respondent-Corporation filed this Writ Petition *inter alia* seeking to assail the denial of back wages in terms of the award passed in I.D.No.107 of 1994, dated 27.05.2000 on the file of Labour Court, Guntur.

The case of the petitioner is that he was appointed as long back as on 25.02.1985 as driver in the respondent-Corporation and put up considerable service. However, having regard to an accident, the petitioner was removed from service on 13.09.1993 and the appeal filed by him was also rejected. Subsequently, the Labour Court having expected that there is no rash and negligent driving as attributed against him, directed reinstatement but observed that the petitioner ought to have taken precautions, denied back wages. The case of the petitioner is that he was acquitted in the criminal case in C.C.No.24 of 1993 and further having given a

finding that there was no rashness on the part of the petitioner, the back wages could not have been denied in its entirety. More so, there is no attribution against the petitioner for the negligence.

Having considered the submissions made and also on perusal of the material available on record, it is seen that the entire charge against the petitioner was rash and negligence, which is not expected from him. Only on the ground that the petitioner ought to have taken some precautions, back wages have been denied, though he has been reinstated. Under the facts and circumstances and especially in view of the finding of the Labour Court as to the absence of rashness on the part of the petitioner, and the petitioner having reinstated, the Labour Court could not restrict denial of 50% of the back wages rather than its entirety.

Accordingly, the Writ Petition is partly allowed, setting aside the denial of back wages in entirety, but extracting only to 50% of the back wages.

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(B.PRAKASH RAO, J)

13th December 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Depot Manager, APSRTC Bus Depot, Chirala, Prakasam District.
2. The Divisional Manager, APSRTC, Ongole, Prakasam District.
3. Two CD copies.